

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

AMERICAN CLOTHING EXPRESS,
INC., D/B/A/ ALLURE BRIDALS
AND JUSTIN ALEXANDER, INC.,

Plaintiffs,

v.

No. 2:20-cv-2007

CLOUDFLARE, INC. and DOES 1 -
200, inclusive,

Defendants .

ORDER GRANTING MOTION TO DEEM SERVICE EFFECTIVE

Before the Court is Plaintiffs American Clothing Express, Inc., d/b/a/ Allure Bridals and Justin Alexander, Inc.'s (collectively, "Plaintiffs") Motion to Deem Service Effective against Defendant Vividress.co.za ("Vividress"). (ECF No. 67.) For the following reasons, the Motion is GRANTED.

Plaintiffs make wedding dresses and create images of models wearing dresses to display on their websites. Plaintiffs allege that 98 websites, including Vividress, use their images to sell knockoff dresses. Vividress purports to be based in South Africa. On January 6, 2020, Plaintiffs filed their Complaint, alleging copyright infringement against the Defendant websites. (ECF No. 1.) On August 12, 2020, Plaintiffs sent an email to Vividress requesting that it waive service of process. The email

included copies of the Complaint and its attached exhibits. The same day, Hollie Elliot confirmed receipt of the Complaint and responded to Plaintiffs' email. On October 29, 2020, Plaintiffs filed their Motion for Leave to Serve Process by Substituted Service (ECF No. 42), which the Court granted. (ECF No. 52.) On July 15, 2021, Plaintiffs served Vividress at the same email address, but the email was returned as undeliverable. Plaintiffs allege that they have no other means of communicating with Vividress.

Federal Rule of Civil Procedure 4 governs summons. A plaintiff may request that a defendant waive service of summons. Fed. R. Civ. P. 4(d)(1). "Civil Procedure Rule 4(d)(1) should be construed liberally [] to effectuate service where actual notice of suit has been received by the defendant." Rovinski v. Rowe, 131 F.2d 687, 689 (6th Cir. 1942) (alteration added). Vividress has actual notice of Plaintiffs' suit. Given Rule 4's liberal standard, Plaintiffs have effectively served Vividress. Plaintiffs' Motion to Deem Service Effective is GRANTED.

SO ORDERED this 15th day of April, 2022.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE